IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2353 of 2007

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AHMEDABAD MUNICIPAL CORPO. - Petitioner(s)
Versus
PANKAJKUMAR DEVJIBHAI PARMAR - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner(s) : 1,
MR N.D.Sonagra for Mr.PRABHAKAR UPADYAY for Respondent(s) : 1,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 23/02/2007

ORAL JUDGMENT

Heard the learned advocates.

Rule returnable today. Mr.Sonagra waives service of rule. With the consent of the learned

advocates, the petition is heard and disposed of today.

The petitioner, Ahmedabad Municipal Corporation, has challenged the judgment and award dated 21st March, 2006 passed by the Labour Court, Ahmedabad in Reference (LCA) No.743 of 1997. By the impugned award, the learned Labour Judge has held that the termination of service of the respondent workman, a daily wage labourer, on 1st November, 1996 was illegal and violative of Sections 25-G and 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”). In pursuance of the said finding, the learned Labour Judge has set aside the order of termination of service of the workman and has directed the petitioner Corporation to reinstate the workman in service with 30% of the back wages.

Mr.Munshaw is unable to dislodge the finding that termination of service of the workman was in contravention of Section 25-G of the Act and that there is violation of Section 25-H of the Act also. Mr.Sonagra has submitted that the workman does not press for the back wages awarded by the Labour Court but he be given benefit of continuity of service.

In above view of the matter and with the consensus of the learned advocates, the petition is partly allowed. The direction of the Labour Court in respect of the reinstatement of workman in service is confirmed. The workman shall be reinstated in service

latest by 5th March, 2007. It is clarified that on reinstatement in service, the workman will be entitled to the benefit of continuity in service also. The direction of the Labour Court to pay 30% of the back wages is set aside i.e., the workman will not be entitled to back wages or any part of it from the date of termination of his service till the date he is reinstated in service. In the event, the Corporation fails to reinstate the workman in service by 5th March, 2007 as directed, the workman will also be entitled to the wages from 1st April, 2006 till he is reinstated in service.

Rule is made absolute in the above terms. The parties shall bear their own cost. Registry shall issue the writ forthwith.

(Ms.R.M.DOSHIT, J)

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